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**UNITED STATES BANKRUPTCY COURT
DISTRICT NEVADA**

IN RE: SCHULTE PROPERTIES, LLC

DEBTOR

CASE: 17-12883-mkn

CHAPTER 11

Hearing Date: August 30, 2017

Hearing Time: 9:30 am

Estimated Time for Hearing: 15

**MOTION TO ASSUME EXECUTORY CONTRACT FOR PROPERTY MANAGEMENT
SERVICES BETWEEN SCHULTE PROPERTIES LLC AND THRIVE PROPERTY
MANAGEMENT AND INVESTMENTS INC PURSUANT TO 11 U.S.C. § 365**

NOTICE OF OPPORTUNITY TO OBJECT AND FOR HEARING

Pursuant to LR 9014.1, the court will consider this motion, objection, or other matter without further notice of hearing unless a party in interest files an objection within twenty-one (21) days from the date of service of this paper. If you object to the relief requested in this paper, you may file your objection at the bankruptcy clerk's office located in Las Vegas at the United States Bankruptcy Court, 300 Las Vegas Blvd. South, Las Vegas, Nevada 89101, and serve a copy on the movant's attorney and any other appropriate persons.

The objecting party has a duty to timely set the objection for a hearing and properly notice all parties in interest. If you do not file an objection within the time permitted, then:

- **The court may refuse to allow you to speak at the scheduled hearing; and**
- **The court may rule against you without formally calling the matter at the hearing; and**
- **An order granting the requested relief may be entered by the court without further notice or hearing.**

TO THE HONORABLE UNITED STATES BANKRUPTCY JUDGE:

Debtor, Schulte Properties LLC, moves this court for an order authorizing the assumption of the executory contracts between Debtor and the property manager, Thrive Property Management and Investments Inc (“Thrive”). As grounds for the assumption, Debtor states:

1. This case was commenced on May 31, 2017 by a voluntary petition for relief under chapter 11 of title 11 of the United States Code.
2. Schulte Properties LLC is the debtor in possession.
3. Melani Schulte is the sole member of Schulte Properties LLC. Melani Schulte is the prior owner and Schulte Properties LLC is the current owner of the real property listed in this Bankruptcy.
4. Melani Schulte is also the sole owner of Thrive.
5. Melani Schulte as the agent of Thrive is a licensed real estate broker / sales person [License BS.0144173] and permitted property manager [Permit PM.0166177] with the Nevada Real Estate Division.¹
6. Melani Schulte and Thrive have been managing the property since the properties listed in the bankruptcy since 2013.
7. No prior motion for assumption of this contract has been filed and no plan has been confirmed.
8. Pursuant to 11 U.S.C. section 365, debtor asks the Court to permit the debtor to assume the executory contracts between Schulte Properties and Thrive Property Management and Investments Inc. The terms of the contracts are the same for all the properties and are as

¹ Available at: License Lookup - Nevada Real Estate Division Online Services, <https://red.prod.secure.nv.gov/Lookup/LicenseLookup.aspx> (last visited July 26, 2017).

1 follows:

- 2 a. The initial term expires on May 31, 2018 and is subject to automatic renewal; and
- 3 b. The manager is compensated by an amount equal to 50 percent of the first full
- 4 months rent; and \$200 per lease fee; and
- 5 c. The real estate agent who finds the tenant is paid a finder's fee (generally \$200).
- 6

7 9. The assumption of these executory contracts is in the best interest of the estate.

8 10. Copies of the executory contracts have already been provided to the Office of the US

9 Trustee and are available upon request.

10 **Applicable Legal Standards**

11 Section 365 governs the treatment of executory contracts and unexpired leases. Subject

12 to bankruptcy court approval, a debtor-in-possession may assume or reject an executory contract

13 or unexpired lease of the debtor. See 11 U.S.C. § 365(a).² Moreover, the trustee may assume or

14 reject an unexpired lease of residential real property at any time before the confirmation of the

15 plan. See 11 U.S.C. § 365(d)(2).

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17 In this case, a plan has not yet been confirmed and the court has jurisdiction to approve

18 the assumption of the unexpired lease.

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28 ² While Section 365 refers to the rights and obligations of a bankruptcy trustee, a Chapter 11 debtor-in-possession has the same rights and obligations, with exceptions not applicable to this case, under Section 1107(a).

Conclusion

WHEREFORE, debtor prays for an order from the Court authorizing and approving the assumption of the executory contracts between Debtor and the property manager, Thrive Property Management and Investments Inc.

Dated: 26 July 2017



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Certificate of Service

On July 26, 2017, I served the above documents listed as

- MOTION TO ASSUME EXECUTORY CONTRACT FOR PROPERTY MANAGEMENT SERVICES BETWEEN SCHULTE PROPERTIES LLC AND THRIVE PROPERTY MANAGEMENT AND INVESTMENTS INC PURSUANT TO 11 U.S.C. § 365
- Notice of Hearing on Motion and Opportunity to Object

were served by the following means to on the persons listed below:

1. Via ECF System:

Amberlea Davis on behalf of Debtor Schulte Properties LLC,
amber@sheismylawyer.com

2. By United States Mail, First Class Postage Prepaid:

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Dated: 26 July 2017

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